

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10890 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KOKILABEN VINODCHANDRA DESAI WD/O VD DESAI

Versus

STATE OF GUJARAT

Appearance :

MR BI MEHTA for Petitioner
MR SP HASURKAR for Respondent No. 1 & 2
MR HM JOSHI for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of Order: 07/05/99

ORAL JUDGMENT

1. None of the respondents has filed the reply to this special civil application. So the averments made by the petitioner in this special civil application are to be taken to be admitted.

2. Heard learned counsel for the parties.

3. On the death of her husband, the petitioner approached to this court by filing special civil application No.5189/95 for getting the family pension. That special civil application was came to be allowed and the respondents therein were directed to grant family pension to the petitioner. It is really shocking that in such matters the respondents therein instead of complying with the order have filed Letters Patent Appeal No.18/96 in this court but it has already been rejected. As the petitioner was not getting the family pension, she was constrained to file Misc. civil application No.75/96 for getting the same. Only thereafter she started getting minimum family pension of Rs.375/- from the Panchayat. It is the grievance of the petitioner that the Government has revised the minimum family pension from Rs.375/- to Rs.1,275/- p.m. w.e.f. 1/1/96 vide Resolution dated 30/10/97. The petitioner vide its representation dated 29/4/98 requested the respondent No.2 to give her the revised family pension. It is the case of the petitioner that respondent No.2 asked the petitioner to contact Chief Officer of the respondent No.3. The petitioner vide its representation dated 22/9/98 requested the Chief Officer to give her the revised pension but nothing has been done, hence this special civil application.

4. The learned counsel for the respondents are unable to satisfy this court how the petitioner is not entitled for the revised family pension. The respondents do not dispute that the resolution of the Government dated 31/10/97 has also been made applicable for the retired employees of the municipalities. The claim of the petitioner has been in fact not contested by the respondents which is clearly borne out from the facts that none of them, as stated earlier file reply to the special civil application. During the course of argument also, the learned counsel for the respondents are unable to satisfy reply how the petitioner is not entitled for the revised family pension. It is a very serious matter, where the poor lady has been dragged into the litigation for getting the revised family pension. In the matter of the pension and more particularly family pension where a hard pressed persons are involved, it is not only the duty of the respondents but an obligation to expeditiously consider their cases and if they are entitled to grant all the benefits of the family pension. The petitioner is getting the unrevised family pension. Where the amount of family pension has been revised, the authority should have taken it to be its duty and she should have been given the revised family pension. In such matters, it is the duty of the respondents to do all

these things at their own and the petitioner, a widow is not expected even to file any representation. The worst part is that instead of doing their own duty they have even not cared to do their duty when they were reminded thereof by the petitioner by filing representations.

5. The action of the Collector of the district concerned is also difficult to appreciate. He is being the administrative head of the district, instead of making the petitioner shuttle cock should have decided the matter himself and should have given necessary directions to the concerned authorities to give the petitioner the revised family pension.

6. In the result this special civil application succeeds and the same is allowed. It is hereby declared that the petitioner is entitled for the revised family pension under the resolution dated 30/10/97 w.e.f. 1/1/96. The arrears of the difference of the revised family pension be calculated within one month from the date of the receipt of the writ of this order and this amount should be paid to the petitioner within 15 days next. The petitioner shall be entitled for the interest on the arrears of the difference of the amount of the revised family pension @ 12% from the due date till the date of payment thereof.

7. It is the case where a poor lady has been constrained to file the petition before this court because of inaction and omission and totally casual approach by none other than the District Collector of the District concerned and the respondent No.3. It is a fit case where the petitioner should be awarded costs of this litigation also. The learned counsel for the petitioner submits that the petitioner has incurred Rs.2,500/towards expenses of the litigation. It is really a matter of realisation how the petitioner could have arranged this amount. The respondents Nos. 2 & 3 are directed to pay this amount of the costs to the petitioner in equal proportion. Rule is made absolute accordingly.

(S.K.Keshote, J.)

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